

Appl. No. 10/725,143
Amdt. dated April 10, 2006
Reply to Office Action of January 10, 2006

Remarks

Claims 1-25 were presented for the Examiner's consideration. Claims 1-18 are currently withdrawn. By this Amendment, claim 19 and 21-23 are amended. Hence, claims 19-25 are currently pending in the application. Support for this amendment is found in the specification at page 21, lines 29-31 and page 22, lines 1-26. No new matter is added.

Pursuant to 37 C.F.R. 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

I. Restriction/Election

Applicants acknowledge the telephonic election of Group III, claims 19-25. Please note that the election is made without traverse. Applicants specifically reserve the right to seek patent protection for non-elected subject matter by continuing application.

II. 35 U.S.C. 102 Rejection

Claims 19 and 21-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Isaka et al. The rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

Isaka teaches a heat sealable packaging material comprising a stretched base layer formed of a propylene polymer and a stretched surface layer formed of a blend of a propylene-ethylene copolymer and an alpha-olefin-propylene copolymer (See Abstract).

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Isaka does not teach a thermoplastic film comprising at least 35 weight percent of a filler or combination of fillers based on the total weight of said core layer as required by amended independent claim 19. Instead, Isaka teaches the use of inorganic additives as antiblocking agents including (i.e. silica, calcium carbonate, magnesium silicate, calcium phosphate) in an amount of 0.1 to 3 parts by weight (See Col. 5, lines 1-25). These inorganic materials may also be used as fillers (See Spec., page 22, lines 5-15). The weight percent of inorganic additives disclosed by Isaka is not sufficient to provide breathability to Applicant's claimed thermoplastic films (See Spec., page 22, lines 18-26). Additionally, even if Isaka taught the requisite weight percentage of inorganic additives, the additives disclosed by Isaka are used as anti-blocking agents and not as fillers (See Col. 5, lines 1-15). There is no teaching or suggestion in Isaka of using a filler to provide breathability.

Additionally, Isaka actually teaches away from Applicant's claimed invention. Isaka teaches that it is desirable to utilize packaging materials that are both moisture proof and air-tight (See Col. 1, lines 10-30). Conversely, Applicants use fillers to promote breathability (See Spec. page 21, lines 29-31 and page 22, lines 1-26).

Because Isaka does not teach a breathable thermoplastic film wherein said thermoplastic film comprises at least 35 weight percent of a filler or combination of fillers based on the total weight of said core layer as required by amended independent claim 19, the rejection should be withdrawn. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

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III. 35 U.S.C. 103 Rejection

Claim 20 is rejection under 35 U.S.C. 103(a) as being unpatentable over Isaka et al. in view of Foster et al. The rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

As discussed above, Isaka does not teach a thermoplastic film comprising at least 35 weight percent of a filler or combination of fillers based on the total weight of said core layer as required by amended independent claim 19 upon which claim 20 directly depends.

Foster does not overcome the deficiencies of Isaka. Foster teaches olefin polymer compositions containing silicone additives which can be extruded through relatively narrow die gaps at commercial extrusion rates (See Abstract). Nowhere does Foster teach the breathability of its polymer compositions nor does it teach a thermoplastic film comprising at least 35 weight percent of a filler.

Because Isaka does not teach a thermoplastic film comprising at least 35 weight percent of a filler or combination of fillers based on the total weight of said core layer as required by amended independent claim 19, and because Foster does not overcome the deficiencies of Isaka, the rejection should be withdrawn. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance.

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Please charge any prosecutorial fees which are due to Kimberly-Clark
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The undersigned may be reached at: 770-587-8620.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I, James Arnold, Jr. hereby certify that on April 10, 2006 this document is being
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